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Docket No.: 6001.1178
Date: May 9, 2005

In re application of: **COTE et al.**
Serial No.: 10/035,997
Filed: 10/26/2001
For: **MATCHED VELOCITY TRANSFER APPARATUS FOR A SHEET MATERIAL ARTICLE TRIMMER**

Sir:

Transmitted herewith is an **APPELLANT'S BRIEF (11 pages)** in the above-identified application.

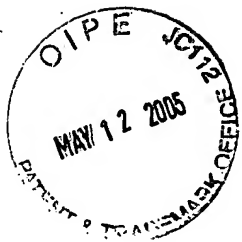
- [] Also transmitted herewith are:
[] Petition for extension under 37 C.F.R. 1.136
[] Other:
- [X] Check(s) in the amount of **\$500.00** is/are attached to cover:
[] Filing fee for additional claims under 37 C.F.R. 1.16
[] Petition fee for extension under 37 C.F.R. 1.136
[X] Other: Appeal Brief Fee
- [X] The Assistant Commissioner is hereby authorized to charge payment of the following fees associated with this communication or credit any overpayment to Deposit Account No. 50-0552.
- [X] Any filing fee under 37 C.F.R. 1.16 for the presentation of additional claims which are not paid by check submitted herewith.
- [X] Any patent application processing fees under 37 C.F.R. 1.17.
- [X] Any petition fees for extension under 37 C.F.R. 1.136 which are not paid by check submitted herewith, and it is hereby requested that this be a petition for an automatic extension of time under 37 CFR 1.136.


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I hereby certify that the documents referred to as attached therein and/or fee are being deposited with the United States Postal Service as "first class mail" with sufficient postage in an envelope addressed to "Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" on May 9, 2005.
DAVIDSON, DAVIDSON & KAPPEL, LLC

BY: 

Jan Decker



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Re: Application of: COTE, et al.
Serial No.: 10/035,997 Confirmation No.: 3643
Filed: 10/26/2001
For: MATCHED VELOCITY TRANSFER
APPARATUS FOR A SHEET MATERIAL
ARTICLE TIMER

Art Unit: 3724
Examiner: Phong H. Nguyen
Customer No.: 23280
Atty. Docket: 6001.1178

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Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

May 9, 2005

APPELLANTS' BRIEF UNDER 37 C.F.R. § 41.37

Sir:

Appellants submit this brief for the consideration of the Board of Patent Appeals and Interferences (the "Board") in support of their appeal of the Final Rejection dated November 8, 2004 in this application. The statutory fee of \$500.00 is paid concurrently herewith.

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1. REAL PARTY IN INTEREST

The real party in interest is Goss International Americas, Inc., a U.S. corporation having a place of business in Dover, NH, the assignee of the entire right, title and interest in the above-identified patent application. The assignment was recorded on October 20, 2004 at reel 015886, frame 0619.

2. RELATED APPEALS AND INTERFERENCES

Appellants, their legal representatives, and assignee are not aware of any appeal, interference or judicial proceeding that directly affects, will be directly affected by, or will have a bearing on the Board's decision in this appeal.

3. STATUS OF CLAIMS

Claims 1 to 11 and 21 to 25 are pending. Claims 12 to 20 have been canceled. Claims 1 to 11 and 21 to 25 have been finally rejected as per the Final Office Action dated November 8, 2004.

The rejection to claims 1 to 11 and 21 to 25 thus is appealed. A copy of appealed claims 1 to 11 and 21 to 25 is attached hereto as Appendix A.

4. STATUS OF AMENDMENTS AFTER FINAL

An amendment to claim 22 was filed after the final rejection, but was not entered and was not believed to be necessary. A Notice of Appeal was filed on March 8, 2005.

5. SUMMARY OF THE INVENTION

The present invention provides for a transfer apparatus for a sheet material article trimmer (see, e.g., 20 in Fig. 1, in specification see, e.g., paragraph [0031]), the transfer apparatus comprising: a transfer element (see, e.g., 30 in Fig. 1, in specification see, e.g. paragraph [0049]) configured to grip the sheet material article (see, e.g., 54 in Fig. 14, in specification see, e.g. paragraph [0049]) and move the sheet material article in a transfer direction onto a moving side table (see, e.g., 22 in

Fig. 14, in specification see, e.g. paragraph [0052]) of the sheet material article trimmer (see, e.g., 20 in Fig. 1, in specification see, e.g., paragraph [0031]); and a driver (see, e.g., 88 in Fig. 9, in specification see, e.g., paragraph [0050]) configured to move the transfer element at a same speed as the moving side table during a first time period, the speed of the side table (see, e.g., 22 in Fig. 14, in specification see, e.g. paragraph [0052]) and the transfer element (see, e.g., 30 in Fig. 1, in specification see, e.g. paragraph [0049]) varying during the first time period, when the sheet material article is gripped by the transfer element (see, e.g., 30 in Fig. 1, in specification see, e.g. paragraph [0049]) and the side table (see, e.g., 22 in Fig. 14, in specification see, e.g. paragraph [0052]) is moving in the transfer direction.

Further, the invention provides for a transfer apparatus for a sheet material article trimmer (see, e.g., 20 in Fig. 1, in specification see, e.g., paragraph [0031]), the transfer apparatus comprising: a transfer element (see, e.g., 30 in Fig. 1, in specification see, e.g. paragraph [0049]) configured to grip the sheet material article and move the sheet material article in a transfer direction onto a side table (see, e.g., 22 in Fig. 14, in specification see, e.g. paragraph [0052]) of the sheet material article trimmer (see, e.g., 20 in Fig. 1, in specification see, e.g., paragraph [0031]); and a driver (see, e.g., 88 in Fig. 9, in specification see, e.g., paragraph [0050]) configured to move the transfer element (in specification see, e.g., paragraph [0008]) at a same speed as the side table (see, e.g., 22 in Fig. 14, in specification see, e.g. paragraph [0052]) during a first time period when the sheet material article is gripped by the transfer element (in specification see, e.g., paragraph [0008]) and the side table is moving in the transfer direction; the driver including an epicycle gear unit (see, e.g., 88 in Fig. 9, in specification see, e.g., paragraph [0050]), the epicycle gear unit including a constant speed input member (in specification see, e.g., paragraph [0051]) driven by a main trimmer drive (in specification see, e.g., paragraph [0051]) of the sheet material article trimmer and a variable speed input member (in specification see, e.g., paragraph [0051]) configured for varying an output of the epicycle gear unit (see, e.g., 88 in Fig. 9, in specification see, e.g., paragraph [0050]) so as to vary a speed of the transfer element (in specification see, e.g., paragraph [0008]).

6. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Whether claim 22 should be rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Whether claims 1 to 5, 7 to 10 and 21 to 25 should be rejected under 35 U.S.C. §102(b) as being anticipated by Bryson et al.

Whether claim 6 should be rejected under 35 U.S.C. 103(a) as being unpatentable over Bryson et al.

Whether claim 11 should be rejected under 35 U.S.C. 103(a) as being unpatentable over Bryson et al. in view of Byrt et al.

7. ARGUMENTS

Rejection to claim 22 under 35 U.S.C. 112

Claim 22 was rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 22 recites the transfer apparatus as recited in claim 21 wherein the first time period corresponds to 130 degrees of the reciprocating motion of the side table. Claim 1 recites “a driver configured to move the transfer element at a same speed as the moving side table during a first time period.”

It is respectfully submitted that this limitation is clear and definite. A reciprocating motion of the side table has 360 degrees of movement as shown clearly in Fig. 13 and described in [0132], which describes the same speed of the transfer element from 150 to 280 degrees of the 360 degrees of side table motion, i.e. “the first time period corresponds to 130 degrees of the reciprocating motion of the side table”.

Withdrawal of the rejection under 35 U.S.C. 112 is respectfully requested.

Rejection under 35 U.S.C. §102(b)

Claims 1 to 5, 7 to 10 and 21 to 25 were rejected under 35 U.S.C. §102(b) as being anticipated by Bryson et al.

Claims 1 to 5, 7 to 10 and 21 to 24

Claim 1 recites a transfer apparatus for a sheet material article trimmer, the transfer apparatus comprising:

a transfer element configured to grip the sheet material article and move the sheet material article in a transfer direction onto a moving side table of the sheet material article trimmer; and

a driver configured to move the transfer element at a same speed as the moving side table during a first time period, the speed of the side table and the transfer element varying during the first time period, when the sheet material article is gripped by the transfer element and the side table is moving in the transfer direction.

It is admitted that the speed of the side table in Bryson varies, as the side table reciprocates. However, there is no teaching or disclosure pointed to by the Office Action which indicates that the speed of the “transfer element varies during the first time period” when the driver moves the transfer element and the side table at a same speed.

The Office Action states at page 3 that the driver for the belts 162, 203 includes epicyclical gear unit 62 with a constant input speed member 61 and a variable speed member 64. However, there is absolutely no teaching or disclosure that this epicyclical gear unit 62 drives the belts 162, 203 which are driven by drive roller 165. Moreover, even if somehow it did, gear unit 62 is merely a differential device to alter phase but does not impart a reciprocating motion.

There also is absolutely no teaching or disclosure that the speed of the belts 162, 203 “varies during the first time period” as claimed. Bryson very clearly states that “it is desired to maintain the book velocity which is present during the front edge trimming and to transport the book over a considerable distance in delivering the book to the side edge table.” This transport is accomplished by belts 162, 203. (See Bryson at col. 11, lines 45 to 55). Maintaining a book velocity indicates a constant speed.

The Office Action states that the speed of the transfer elements varies as “implied in col. 17, lines 5 -10.” This section discloses no more than that the speed of the transfer element and the speed of the moving side table match at a single point in time. There is no disclosure that the speed of the transfer element is anything other than constant, and not varying, at this point in time. See Bryson at column 17, lines 7

to 11: “the speed of the books and speed of the knife table 91 are matched (Fig. 25). *At this point* pressure plate 189 is swung upwardly to free the books from the drive of the pinch belts.” Col. 17, lines 7 to 11 of Bryson. Bryson clearly discloses that this match of speed is a single point of time.

Withdrawal of the rejection to claim 1 and its dependent claims is respectfully requested.

Claim 22: Argued separately

With further respect to claim 22, Bryson also does not disclose “wherein the first time period corresponds to 130 degrees of the reciprocating motion of the side table” as claimed, nor does the office action where Bryson teaches this limitation.

Withdrawal for this reason as well is respectfully requested.

Claim 24: Argued separately

With further respect to claim 24, Bryson does not disclose “wherein the driver both increases and decreases the speed of the transfer element during the first time period.” The Office Action states that the speed increases and decreases when the driver is turned on and off. But this is not during the first time period.

Withdrawal for this reason as well is respectfully requested.

Claim 25: Argued separately

Independent claim 25 was rejected under 35 U.S.C. 102(b) as anticipated by Bryson.

With respect to claim 25, claim 25 recites a transfer apparatus for a sheet material article trimmer, the transfer apparatus comprising:

a transfer element configured to grip the sheet material article and move the sheet material article in a transfer direction onto a side table of the sheet material article trimmer; and

a driver configured to move the transfer element at a same speed as the side table during a first time period when the sheet material article is gripped by the transfer element and the side table is moving in the transfer direction;

the driver including an epicycle gear unit, the epicycle gear unit including a

constant speed input member driven by a main trimmer drive of the sheet material article trimmer and a variable speed input member configured for varying an output of the epicycle gear unit so as to vary a speed of the transfer element.

The Office Action states at page 3 that the driver for the belts 162, 203 includes epicyclical gear unit 62 with a constant input speed member 61 and a variable speed member 64. However, there is absolutely no teaching or disclosure that this epicyclical gear unit 62 drives the belts 162, 203 which are driven by drive roller 165. Nor has the Office Action indicated any.

Withdrawal of the rejection to claim 25 is respectfully requested.

Rejection under 35 U.S.C. 103 : Bryson alone

Claim 6 was rejected under 35 U.S.C. 103(a) as being unpatentable over Bryson et al. Claim 6 depends from claim 1 and withdrawal of the rejection for the same reasons as with respect to claim 1 is respectfully requested.

Rejection under 35 U.S.C. 103 : Bryson in view of Byrt

Claim 11 was rejected under 35 U.S.C. 103(a) as being unpatentable over Bryson et al. in view of Byrt et al.

Claim 11 depends from claim 1. Byrt does not show “a driver configured to move the transfer element at a same speed as the moving side table during a first time period, the speed of the side table and the transfer element varying during the first time period, when the sheet material article is gripped by the transfer element and the side table is moving in the transfer direction” as recited in claim 1 and in view of the arguments above with respect to claim 1 withdrawal of the rejection to claim 11 is respectfully requested. In addition, it is respectfully submitted that there is no motivation to combine Byrt with Bryson.

Withdrawal of the rejection is respectfully requested.

Respectfully submitted,

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APPENDIX A:

**PENDING CLAIMS 1 to 11 AND 21 TO 25 OF
U.S. APPLICATION SERIAL NO. 10/035,997**

Claim 1 (previously presented): A transfer apparatus for a sheet material article trimmer, the transfer apparatus comprising:

a transfer element configured to grip the sheet material article and move the sheet material article in a transfer direction onto a moving side table of the sheet material article trimmer; and

a driver configured to move the transfer element at a same speed as the moving side table during a first time period, the speed of the side table and the transfer element varying during the first time period, when the sheet material article is gripped by the transfer element and the side table is moving in the transfer direction.

Claim 2 (original): The transfer apparatus as recited in claim 1 wherein the driver is further configured to move the sheet material article to a predetermined position relative to the side table before moving the transfer element at the same speed as the side table.

Claim 3 (original): The transfer apparatus as recited in claim 1 wherein side clamps of the side table grip the sheet material article during at least a portion of the first time period.

Claim 4 (original): The transfer apparatus as recited in claim 1 wherein a side trimming operation is performed during at least a portion of the first time period.

Claim 5 (original): The transfer apparatus as recited in claim 1 wherein the driver is further configured to move the transfer element at a same speed as a front table of the sheet material article trimmer during at least a portion of a second time period when the transfer element grips the sheet material article and a front clamp of the sheet

material article trimmer grips the sheet material article.

Claim 6 (original): The transfer apparatus as recited in claim 1 wherein the driver is further configured to move the transfer element at a same speed as a receiving conveyor of the sheet material article trimmer during a third time period so as to move the sheet material article from the side table onto the receiving conveyor.

Claim 7 (original): The transfer apparatus as recited in claim 1 wherein the transfer element includes at least one continuous belt.

Claim 8 (previously presented): The transfer apparatus as recited in claim 7 wherein the at least one continuous belt includes an upper belt and a lower belt for engaging the sheet material article therebetween.

Claim 9 (original): The transfer apparatus as recited in claim 1 wherein the transfer element includes a shuttle mechanism.

Claim 10 (original): The transfer apparatus as recited in claim 1 wherein the driver includes an epicycle gear unit, the epicycle gear unit including a constant speed input member driven by a main trimmer drive of the sheet material article trimmer and a variable speed input member configured for varying an output of the epicycle gear unit so as to vary a speed of the transfer element.

Claim 11 (original): The transfer apparatus as recited in claim 1 wherein the driver includes a servo motor configured to vary a speed of the transfer element.

Claims 12 to 20 (canceled).

Claim 21 (previously presented): The transfer apparatus as recited in claim 1 wherein the driver moves the transfer element during the first time period to match a reciprocating motion of the side table.

Claim 22 (previously presented): The transfer apparatus as recited in claim 21 wherein the first time period corresponds to 130 degrees of the reciprocating motion of the side table.

Claim 23 (previously presented): The transfer apparatus as recited in claim 1 wherein the driver moves the transfer element during the first time period to exhibit a curved velocity profile.

Claim 24 (previously presented): The transfer apparatus as recited in claim 1 wherein the driver both increases and decreases the speed of the transfer element during the first time period.

Claim 25 (previously presented): A transfer apparatus for a sheet material article trimmer, the transfer apparatus comprising:

- a transfer element configured to grip the sheet material article and move the sheet material article in a transfer direction onto a side table of the sheet material article trimmer; and

- a driver configured to move the transfer element at a same speed as the side table during a first time period when the sheet material article is gripped by the transfer element and the side table is moving in the transfer direction;

- the driver including an epicycle gear unit, the epicycle gear unit including a constant speed input member driven by a main trimmer drive of the sheet material article trimmer and a variable speed input member configured for varying an output of the epicycle gear unit so as to vary a speed of the transfer element.